SUPREME COURT OF THE UNITED STATES.

No. 284.

THE UNITED STATES, APPELLANTS,

vs.

PEDRO SAINSEVAIN.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

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PEDRO SAINSEVAIN, Claimant,
vs.
THE UNITED STATES, Defendant.
} For the place named La Cañada del Rincon.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this sixth day of July, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Pedro Sainsevain for the place named "La Cañada del Rincon" was presented, and ordered to be filed and docketed with No. 283, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

SAN FRANCISCO, *January* 17, 1853.

In case No. 283, Pedro Sainsevain, for the place named "La Cañada del Rincon," the deposition of Manuel Jimeno, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with document marked H. H. No. 1 annexed thereto, was filed.

(Vide page 4 of this transcript.)

SAN FRANCISCO, *Jan. 20th*, 1853.

In the same case, the deposition of H. F. Teschmaker, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed.

4 (Vide page 5 of this transcript.)

SAN FRANCISCO, *February 16th*, 1853.

In the same case, the deposition of James W. Weeks, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 7 of this transcript.)

In the same case, the deposition of Charles Roussilon, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 6 of this transcript.)

SAN FRANCISCO, *September* 26, 1853.

Case No. 283 called, submitted on brief, and taken under advisement by the board.

SAN FRANCISCO, *Jan.* 17, 1854.

In the same case, Commissioner Thompson Campbell delivered the opinion of the board, confirming the claim.

(Vide page 27 of this transcript.)

5 *Petition.*

To the commissioners appointed to ascertain and settle private land claims in the State of California:

Pedro Sainsevain, a citizen of California, herewith presents and prays the confirmation of his title to a tract of land called the Cañada del Rincon, lying on the river San Lorenzo, in the county of Santa Cruz, with the boundaries specified in the grant, and containing two leagues, which was granted to him provisionally, on the 10th July, 1843, by Manuel Micheltorena, then governor of California, and afterwards completely on the 21st April, 1846, by Pio Pico, then governor of California, under authority of the laws and regulations in force at the time, ofthe two several grants. He represents that he took possession of said tract of land in the year 1848, and put up a mill and other buildings upon it, and has occupied it ever since. That on the 10th June, 1846, the concessions of this land to him was approved by the departmental assembly. That he knows of no other claim to any part of the land. In support of his claim, he refers to the copy of the espediente and other papers, marked A, the translation thereof, marked B, the copy of the grant, marked C; all of which are herewith filed; and to such other evidence as he may hereafter offer.

A. P. CRITTENDEN,
Att'y for Petitioner.

Filed in office July 6th, 1852.

GEO. FISHER, *Sec'y.*

6 *Deposition of Manuel Jimeno.*

SAN FRANCISCO, *Jan'y 17th*, 1853.

On this day, before Commissioner Hiland Hall, came Manuel Jimeno, a witness in behalf of the claimant, Pedro Sainsevain, petition No. 283, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

Questions by claimant.

Int 1. What is your name, age, and place of residence? If you say that you reside in California, state since when.

Ans. My name is Manuel Jimeno; I am forty-nine years of age; I reside in Monterey, California, and have resided there for the last twenty-four years.

Int. 2. Are you acquainted with the signatures of Pio Pico and José

Matias Moreno? If yea, examine the document marked Exhibit No. 1, now shown to you, and which will be attached to your deposition, and say whether or not the signatures of those persons whereon they appear upon said doc. are genuine.

Ans. I am acquainted with the signatures of Pio Pico and José Matias Moreno; I have examined the document referred to; their signatures are genuine wherever they appear thereon.

Int. 3. What office in California did Pio Pico fill in April, 1846, if any?

Ans. He was then governor of California.

7 Int. 4. Who was acting as secretary of the governor at that time?

Ans. Don José Matias Moreno and Don José Ma. Covarrubias were both acting at that time as secretary. The latter lived at Santa Barbara, and the former at Los Angeles, and it depended upon the place where any decree was made whether it was signed by one or the other.

MAN'L JIMENO.

Sworn and subscribed before me.

HILAND HALL, *Comm'r.*

Filed in office Jan'y 17, 1853.

GEO. FISHER, *Sec'y.*

Deposition of H. F. Teschmacker.

SAN FRANCISCO, *Jan'y 20th*, 1853.

On this day, before Comm'r H. J. Thornton came H. F. Teschmaker, a witness in behalf of the claimant, Pedro Sainsevain, petition No. 283, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

Questions by claimant.

Question 1st. What is your name, age, and place of residence, and how long have you resided there?

Ans. My name is Henry F. Teschmaker; my age is thirty years; my residence is San Francisco, California, in which county I have lived about eleven years.

8 Question. Are you acquainted in the place called Cañada del Rincon, or El Rincon, in the county of Santa Cruz, California? If yea, state where it is situated and what you know of its occupation and cultivation and settlement.

Answer. I am acquainted with the place so called, and have been for some eight years. It is situated in Santa Cruz county, near the town of Santa Cruz. This place was occupied, when I first knew it, by Mr. Charles Rousillon, who lived upon it. He owned a saw-mill, which was in operation on the place, from which I have superintended the transportation of sawed lumber. He had also a dwelling-house, and I think two other houses for his workmen, upon the place.

The only cultivation that I remember was of a garden or small patch for raising vegetables. This place was, to my knowledge, continued to be occupied and used, as I have stated, up to 1847, and from reliable information has been so ever since.

Question. Do you or not know on whose account Mr. Roussillon occupied, as you have stated, at any time of such occupation. ?

Ans. I was informed by Mr. Roussillon, and also by Mr. Sainsevain, that they were in partnership in this property in the years 1845 and 1846. They may have been so jointly interested before that, but I have no knowledge further about it.

U. S. law agent present.

H. F. TESCHMACKER.

Sworn to and subscribed before me this 20th of January, 1853.

HARRY J. THORNTON, *Comm'r.*

Filed in office Jan'y 20th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Charles Roussillon.

9 SAN FRANCISCO, *Feb'y* 16, 1853.

On this day, before C'm'r Hiland Hall came Charles Rousillon, a witness in behalf of the claimant, Pedro Sainsevain, petition No. 283, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is Charles Rousillon; my age is thirty-nine years, and I reside at Santa Cruz. I know the rancho called Cañada del Rincon. Sainsevain and myself built the mill together, but it was built for him. I am now a part owner of the land claimed in this case.

CH. ROUSSILLON.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Feb'y 16th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of James W. Weeks.

SAN FRANCISCO, *Feb'y* 16, 1853.

On this day, before Com'r Hiland Hall came James W. Weeks, a witness in behalf of the claimant, Pedro Sainsevain, petition No. 283, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

10 My name is James W. Weeks; my age is thirty-eight years, and I reside at San José. I know the rancho called

1849

Cañada del Rincon, in the county of Santa Cruz, on the river San Lorenzo. The lower boundary of the rancho is about three-quarters of a mile from the church of Santa Cruz. I owned the land adjoining the lower or southern boundary of the tract. The southern boundary was very near the fence that enclosed my cultivated land. I was there four years and sold out, and left in the year 1844. Pedro Sainsevain and Company built a saw-mill on the place in 1843, as I think, and other houses for carrying on the sawing business. Such occupation has continued to the present time.

JAMES W. WEEKS.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Feb'y 16, 1853.

GEO. FISHER, *Sec'y.*

11 1846.

Expediente promovido por D. Pedro Sainsevain en pretencion de la propiedad del terreno donde tiene un molino de aserrar madera en la mision de Santa Cruz.

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12 *A.—Expediente.*

Sello tercero—un peso.

Habilitado provisionalmente por la aduana marítima del puerto de Monterey en el departamento de las Californias, para el año de mil ochociento cuarenta y tres.

MANUEL CASTAÑARES.

MICHELTORENA.

{ Ad'a Mariti'a de Mont'y. }

(3. S. D. K.)

Excelentissimo Señor Gobernador y Comandante General.

ANG'S, *Julio* 3 *de* 1843. Sirvasse informar el M. R. P. Presidente de los misiomes del Horte.

MICHELT'A.

Pedro Sainsevain subdito, Frances y avecindado en este departamento como mas haya lugar en derechó mé presento y digo "Que deseando poner una aquina de acerrar mademiento cando un paráge propio," he hayado una cañada en el estableciera y bus de Sta. Cruz nombrada el Rincon en el Rio Sn. Lorenzo cuyo diseño q'e adjunto á esta solicitud muestra el terreno q'e pretendo.

Y resultando un benificio al departamento por esta industria, denuncio en divida forma el mencionado terreno que se halla valdio

como lo espresan los informes q'e acompaño de los autoridades á q'e me he derijido como creo conveniente al efecto.

P. T. A. V. E. suplico si es asequible mi solicitud, me estienda el titulo respectivo en lo q'e recivire gracia y justicia; juro no proceder de malicia, &c.

Angeles, a 3 de Julio de mil ochocientos cuarenta y tres.

PEDRO SAINSEVAIN.

13 (4 S. D. K.)

Exmo. Sor: En debido obedicimiento al superior decreto de V. E. f'ha 3 del corriente, de q'e informe a ese gobierno sobre el terreno q'e en la mision de Sta. Cruz solicita el Sor. D. Pedro Sainsevain; debo decir a V. E. q'e no teniendo un conocimiento practico del citado terreno ni noticia actual de si esta valdio, o pertenece o algun individuo o comunidad, no me es dable como deseara el satisfacer a V. E. con un informe espesificativo. Sin embargo como presumo q'e la extinguida mision de Sta. Cruz, no podra cultivar ese terreno, bien podrá V. E. si fuere de su superior agrado, el adjudicarlo á q'e le solicita; pr. al acto de dar la posecion deberan citarse los colindantes y en este supuesto, mi dictamen nunca podrá refluir en contra de sus derechos q'e en d'ho acto sobran muy el manifestarlos. Aunque yo repito ignoro si la adjudicacion del terreno en cuestion, pertenecera ó no á algun idividuo.

Es cuanto tengo el honor de informar á V. E. con referencia al superior decreto citado asegurando á V. E. mi respetuoso consideracion.

Sta. Barbara, y Julio 7, de 1843.

FR. J. MA. DE J. GONZ'S.

14 [Here follows map, p. 15.]

16 (6 S. D. K.)

Sello cuarto—Dos reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey en el departamento de los Californias para el año de mil ochocientos cuarenta y tres.

MANUEL CASTAÑARES.

Micheltorena.

{ Ad'a mariti'a de Mont'y. }

(7 S. D. K.)

Señor Prefecto del Pr'o Distrito:

Pedro Sainsevain, subdito Frances y avecindado en este departamento se presenta tena V. y dice. Que siendalo forzoso para el adelanto de sus negocios poner una maquina para asserrar madera y haviendo visto en Santa Cruz un parage muy propio para el efecto con el nombre de Rincon en el Rio Sn. Lorenzo que por ahora está

baldio como lo especifica el certificado que adjunto. Suplico á V. se sirva informar al Señor General D'n Manuel Micheltorena, si no hay inconveniente ninguno para que se le conceda al interesado dicho terreno.

Por tanto suplico á V. se sirva acceder á mi solicitud de lo cual recibire merced y justicia.

Monterey, Junio 23 de 1843.

P. SAINSEVAIN.

EXMO. SOR. GOBERNADOR: Visto el informe del encargado del establecimi'to de Sta. Cruz, es de parecer esta, prefectura se le conceda al interesado el permiso que solicita, desandolo á la deliveracion de V. E.

Monterey, Junio 23 de 1843.

JOSÉ R. ESTRADA.

(8 S. D. K.)

17 Establecimiento de Santa Cruz.

Por pedimiento del Sor. Dn. Pedro Sainsevain q. solicita poner una maquina de acerrar madera en el parage dicho El Rincon, en el Rio de S'n Lorenzo, por presente esta desocup'o dicho terreno, y doy este certificado al interesado por los fines q'e convengan.

Santa Cruz, á 22 de Junio de mil ochocientos y cuarenta tres.

JOSÉ BALCAFF,
Encarg'a del Estableciem'to de Sta. Cruz.

(9 S. D. K.)

{ Gob'o polit'o de Californias. }

ANG'S, *Julio* 10 *de* 1843.

Por tener q'e marchao y no haber tiempo, y en vista de los informes q'e anteceden. Sirvale al intersado de titulo provisional con obligacion de ocurrir á quese le espida en forma cuando definitivamente se establesca este gobierno.

MICHELT'A.

MONTEREY, *Nov.* 20 *de* 1843.

Con presencia de todo lo espuesto y antecedentes q'e haya á pesar del anterior decreto, informe el S. S'rio de este gob'o.

MICHELT'A.

(10 S. D. K.)

EXMO. SOR. GOBERNADOR: El S'or Dn. Pedro Sainsevain no esta naturalizado y es requisito pa. adquirer, indispensablemente pro-
18 pied territorial; pero en consideracion á los grandes gastor que tiene emprendidos en la fabrica que ha establecido en el terreno pretendido, puede permitirse le el corte de Madera inter se naturalizado p'a espedirle el titulo que pretende.

La disposicion de V. E. sera lo que mejor combenga.
Monterey, N'bre 20 de 1843.

MAN'L JIMENO.

(11 S. D. K.)

Leonardo Cota, regidor decano y alcalde 2o inter'o de la ciudad de los Angeles, &c.

Certifico que D. Pedro Sainsevain me he presentado un documento del tenor siguiente.

Sello cuarto.

El ciudadano Manuel Micheltorena, general de brigada del ejercito Mejicano, ayudante general del mismo, gobernador, comandante general inspector del departamento de Californias.

(12 S. D. K.)

Habiendo Don Pedro Sainsevain, originario de Francia cumplido con las condiciones y requisitos que previene las leyes respectiba para conceder carta de naturaliza a los estrangeros y acompaña de los documentos correspondientes; declaro al referido Don Pedro Sainsevain naturalizido en la republica Mejicana en virtud de la autoridad que por aquella ley se me confiere.

Monterey, siete de Octubre de mil ochocientos cuarenta y cuatro.

MANUEL MICHELTORENA.

MANUEL JIMENO, *Secr'o.*

Cuyo documento de saco fiel y legalmente de su original en esta foja de papel comun por falta de sellado.

Angeles Abril veinte y uno de mil ochocientos cuarenta y seis.

LEONARDO COTA.

Ass'a : YGN'O CORONEL.
Ass'a : RAFAEL GIURADO.

19 (13 S. D. K.)

Excelentissimo S'or Gobernador del Departamento :

Pedro Sainsevain, Mejicano por naturalisacion radicado en este departamento y vecino del pueblo de San José Guadelupe, ante V. E. con todo respeto pareser y digo:

Que haviendose me consedido por el antecesor de V. E. la fabrica de un molino en las inmediaciones de la estinguida mision de Santa Cruz, verefique los gastos bajo el seguro de haverseme ofrecido el titulo correspondiente, y cuando ya estaba pa. concluir la fabrica y consentido en que no se me pondria obstaculo pa. obtener el documento prometido por el decreto superior que con fecha (10 de Julio de 1843,) corre en el espediente que tengo el honor de acompañar á V. E. haviendo ocurrido me en contre que se me negaba por las circunstancias de ser estrangero, obligandome por á que me naturalizarse.

(14 S. D. K.)

Me sorprende Excelentissimo Señor, y no conveniendome por entonces cambiar mi ciudadano, me contenté solo, con que no se me molestarse en la empresa. Despues por convenirme asi, me resolver á solicitar la tal naturalizacion y me fue concedida por el Gov. G'ral Don Manuel Micheltorena. en ejercicio del mando de este departamento como se informará V. E. por la copia certificado qoe obra al fin del propio espediente. En tal virtud y siendo complida la condicion que motivo la suspension del titulo correspondiente, espero de sirva V. E., estenderme el respectivo á la propiedad de los terrenos solicitados en mi primeo solicitud, que obra en cabesa del mismo espediente, cuyos tranites quedan concluidos, por lo ante; A. V. E., suplico hago como pido por ser de rejurosa justicia; pero no ser de malicia y lo necesario, &c. Permitiendome el uso del papel
20 como por falta del sellada en el lugar.

Angeles, Abril 21 de 1841.

P. SAINSEVAIN.

(15 S. D. K.)

ANGELES, *Abril* 21 *de* 1846.

Vista la peticion con que da principio este espediente los informes y mas diligencias practicadas que en el aparecen, con todo lo demas que se tuvo presente y ver convino, de conformidad con lo dispuesto en la ley de 18 de Agosto de 1824, y reglamento de 21 de Noviembre de 1828, se declara al ciudadano Mejicano por naturalizacion Pedro Sainsevain, dueño en propiedad de la Cañada de del Rincon, donde corre el rio de San Lorenzo en las inmediaciones de la mision de Sta. Cruz. Libresele el titulo correspondiente al interesado en estencion de dos sitios de ganado mayor conforme al diseño que corre agregado y sometase esta concesion á la aprobacion de la ex'ma asamblea departamental.

Pio Pico, gobernador constitucional del departamento de Californias, asi lo decreté mandé y firmé de que doy fe.

(16 S. D. K.)

Pio Pico, gobernador constitucional del departamento de las Californias:

Por cuanto Don Pedro Sainsevain, ciudadano Mejicano por naturalizacion ha pretendido para su benificio personal y el de su familiá un terreno conocido con el nombre de la Cañada del Rincon donde corre el rio llamado San Lorenzo en las cercanias de la mission de Santa Cruz, colindante con las siembras de Don Guillermo Wiznis y el rancho denominado sayante; practicadas proviamente las dili-
21 gencias y aueriguaciones conservientes segun lo despuesto por leyes y reglamentos usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido en decreto de este dia en concedale el espresado terreno, declarandole la propiedad de

el por las presentes letras, entendiendose d'ha consecion de entera conformidad con las leyes, reserva de la aprobacion de la ex'ma asamblea departamental y bajo las condiciones siguientes:

1o. Podra cercarlo su perjudicar las travesias caminos y servidumbres; lo disfrutará libre y esclusivamente dedicandolo al uso y cultivo que mas le acomode.

2o. Solicitara del juez repectivo le dé la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos respectivos, en cuyos lugares pondra el interesado las mojoneras necesarios.

(17, S. D. K.)

3o. El terreno de que se hace donacion es puramente el de dos sitios de ganado mayor conforme al diseño que corre agregado al expediente original. El juez que diere la posecion lo hara medir con arreglo á ordenanza dejando el sobrante á la nacion para los unos convenientes.

En consecuencia mando que teniendose por firme y valedero el presente titulo, se tome razon de el en el libro á que corresponde y se entregue al interesado para su su resguardo y demas fines.

Dado en la ciudad de Los Angeles en este papel comun por falta de sellado á veintiuno de Abril de mil ochocientos cuarenta y seis.

Queda tomada razon de este superior despacho en el libro respectivo.

(18 S. D. K.)

ANGELES, *Mayo* 8 *de* 1846.

Dado cuenta en sesion de hoy con este espediente á la E.
22 asamblea departmental, se mando pasar á la comision de terrenos valdios.

PIO PICO, *Presid'te.*

AGUSTIN OLVERA. *D. S.*

(19 S. D. K.)

SEÑOR: La comision de terrenos valdios á examinado el presente Esped'te promovido por el ciud'o p'r naturalisacion Pedro Sainsevain del parage nombrado El Rincon donde corre el rio S. Lorenzo q'l le fué concedido p'r el sup'r gobierno departmental conforme a las leyes de la materia; en esta virtud pone a deliveracion de V. E. la propocicion siguiente:

Se aprueba la concesion hecha al ciud'o p'r naturalisacion, Pedro Sainsevain, del parage nombrado Rincon en el Rio de San Lorenzo, jurisdicion de Monterey, segun titulo librado con f'ha 21 de Abril de este año, conforme a la ley de 18 de Ag'to de 1824 y al art. 5o. del reglamento de 21 de N'bre de 1828.

Sala de com's en la Ciudad de los Ang's, Junio 21, 1846.

S. ARGUELLO.

ANGELES, 10 *de Junio de* 1846.

En session de este, dia aprobó la Ex'ma asamblea departmental la proposicion del dictamen anterior.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

23 I, Samuel D. King, surveyer general of the United States for the State of California, and as such now having in my office and under my charge a portion of the archives of the former Spanish and Mexican Territory or department of Upper California, do hereby certify that the nineteen preceding and hereunto annexed pages of tracing paper, numbered from one to nineteen, inclusive, and each of which is verified by my initials (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., this 17th day of May, 1852.

SAM'L D. KING.
Surv. Gen'l, Cal'a.

Filed in office July 6th, 1852.

GEO. FISHER, *Sec.*

24 Sello tercero—Un peso.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey en el departamento de las Californias para el año de mil ochocientos cuarenta y tres.

MANUEL CASTANARES.

MICHELTORENA.

B.

Expediente.—Translation.

To the most excellent Governor and Gen'l in Chief:

I, Pedro Sainsevain, a French subject, resident in this department, in the manner which may be most effective in law, present myself and say, that being desirous of erecting a saw-mill, and in search of a proper place, I have found in the settlement of Santa Cruz, a valley named the Rincon, upon the river San Lorenzo, the plan of which, accompanying this petition, shows the land which I desire to obtain. My enterprise being a benefit to the department, I denounce, in proper form, the land above referred to, which is vacant, as appears from the information hereto attached, given by the authorities to whom I have applied, as I believe is requisite. Wherefore, if it is possible to grant my request, I pray that he proper title may be given me, whereby I shall receive favor and justice. I swear that I do not proceed with malice, &c.

Angeles, July 7th, 1843.

PEDRO SAINSEVAIN.

Let the Rev. Father, the president of the mission of the north, give the necessary information. Angeles, July 7th, 1843.

MICHELT'A.

EXCELLENT SIR: In obedience to the superior decree of your exc'y of the 7th inst., that I should give information to the government in relation to the land of the mission of Santa Cruz, which Pedro
25 Sainsevain solicits, I should say to your exc'y, that having no actual knowledge of this land or certain information whether it is vacant or the property of some individual or community, it is not in my power, as I should wish, to satisfy your exc'y with any precise information; nevertheless, I presume that the late mission of S'ta Cruz will not be able to cultivate this land, your excellency may well grant it to whomsoever may solicit it, if you should think proper to do so; but when possession is given, the adjoining proprietors should be cited; and in that event their rights cannot be affected, since they will have the opportunity of asserting them. Still, I repeat, I am ignorant whether this land does or does not belong to any individual. This is what I have the honor to say to your exc'y of my respectful consideration.

S'ta Barbara, July 7th, 1843.

F. JE. M'A DE JE. GONZALEZ.

To the Prefect of the First District:

I, Pedro Sainsevain, a French subject and resident in this department, present myself before you and say, that being obliged to put up a saw-mill in order to carry on my business, and having seen at Santa Cruz a place very appropriate for the purpose, called the Rincon, upon the river San Lorenzo, which is now vacant, as the accompanying certificate shows, I request you to inform Gen'l Man'l Micheltorena whether there is any objections to his granting me this land. I beseech you to grant my request as a favor and an act of justice.

Monterey, June 23d, 1843.

PEDRO SAINSEVAIN.

To his exc'y the Governor:

In view of the information of the establishment of Santa
26 Cruz, it is the opinion of this prefecture that the permission which he solicits may be granted to the applicant, if thought proper by your excellency.

Monterey, June 23d, 1843.

JOSE R. ESTRADA.

ESTABLISHMENT OF SANTA CRUZ.

At the request of Don Pedro Sainsevain, who solicits permission to erect a saw-mill on the place called the Rincon, on the river San Lorenzo, that said land being at present unoccupied, I give him this certificate for the purposes he deems suitable.

Santa Cruz, June 22d, 1843.

JOSE BALCAFF,
Superintendent of the Establishment of S'ta Cruz.

GOVERNMENT OF THE DEPARTMENT OF THE CALIFORNIAS,
Angeles, July 10th, 1843.

Being upon a journey and wanting time, in view of the preceding information (report,) I give this to the party interested to serve him as a provisional title, requiring him to have it made out in form when the government may be definitely established.

MICHELTORENA.

MONTEREY, *November 20th,* 1843.

In view of all the foregoing, and notwithstanding the former decree, let the secretary of this government report.

MICHELTORENA.

To his excellency the Governor:

Don Pedro Sainsevain is not naturalized, an indispensable
27 requisite in order to (obtain) acquire property in this Territory; but, in consideration of the great expense which he has incurred in erecting works upon the land he desires to obtain, he may be permitted to cut wood upon it until he is naturalized and can receive the title he desires. What your excellency directs will be best.

Monterey, Nov. 20th, 1843.

MANUEL JIMENO.

Leonardo Cota, regidor de y alcalde 2d inter'o of the city of Los Angeles, &c.

I certify that Don Pedro Sainsevain has presented to me a document of the following tenor: Sello cuarto.—The citizen Micheltorena, brigadier gen'l of the Mexican army, adjutant gen'l of the same, commanding gen'l and inspector of the department of the Californias. Don Pedro Sainsevain, a native of France, having complied with the conditions and requisites presented by law for the grant of a letter of naturalization to a foreigner, and having presented the proper paper, I declare him naturalized in the Mexican republic, in virtue of the authority conferred by law.

Monterey, 7th October, 1844.

MANUEL MICHELTORENA.

MANUEL JIMENO, *Secretary.*

Which document is here faithfully and legally copied from the original upon this sheet of common paper for want of sealed.

Angeles, 21st April, 1846.

LEONARDO COTA.

Witness:
YGNACIO CORONEL.
RAFAEL GUIRADO.

To his excellency the Governor of the Department:

I, Pedro Sainsevain, a Mexican by naturalization, settled
28 in this department, and resident of the pueblo de San José Guadelupe, respectfully present myself before your exc'y, and say, that the right to build a mill in the vicinity of the late mission of Santa Cruz having been granted to me by your predecessor, I incurred great expense in so doing, relying upon the proper title, which it was promised me should be made. When the mill was about to be finished, and that, in the mean time, I should not be disturbed, that I applied to obtain this title promised me by the superior decree, dated July 10th, 1843, as appears from the papers which I have the honor to lay before you, and it was refused me, because I was a foreigner, and I was required to be naturalized. This surprised me, your exc'y, and I not then being disposed to change my citizenship, was satisfied with the assurance that I should not be disturbed in my undertaking. Afterwards, it being convenient, I resolved to ask this naturalization, which was granted me by Gov. Ma'l Micheltorena, commanding the department, as your exc'y will see from the certified copy which accompanies this expediente. Wherefore, the condition being fulfilled, which caused the suspension of the title to the land solicited in my first petition at the commencement of the espediente, in which all the steps have been taken, I beseech your exc'y to grant what I request as a strict right. I swear that I do not proceed maliciously, &c.; the use of common paper being permitted for want of sealed in this place.

Angeles, April 21st, 1846.

PEDRO SAINSEVAIN,

ANGELES, *April 21st*, 1846.

29 In view of the petition, which this petition begins, the reports which are here made, and all other things in the premises, and it being in conformity with the directions of the law of August 18th, 1824, and the regulations of November 21st, 1828, Pedro Sainsevain, a Mexican citizen by naturalization, is declared owner in full property of the valley of the Rincon, in which flows the river San Lorenzo, in the vicinity of Santa Cruz. Let the proper title be delivered to him for two leagues of the larger size in conformity to the map which accompanies this. This concession to be subject to the approbation of the most excellent departmental assembly.

I, Pio Pico, constitutional governor of the department of the Californias:

Whereas Don Pedro Sainsevain, a Mexican citizen by naturalization, has solicited for his personal benefit, and that of his family, a tract of land known by the name of the Cañada del Rincon, where the river San Lorenzo runs in the vicinity of the mission of S'ta Cruz, bounded by the town lands of Don Guillermo Wignis, and the rancho called Sayante, the necessary steps and inquiries having been taken in the premises as required by law and the regulations, by virtue of the powers

which are conferred upon me in the name of the Mexican nation, I have thought proper, by a decree of this day, to grant the said land to him, declaring it his full property by these presents, it being understood that this concession is in entire conformity with the laws subject to the approbation of the excellent departmental assembly, and upon the following conditions:

1st. He shall have power to enclose it, without interfering with the crossings, roads and servitudes; he may enjoy it freely and exclusively, devoting it to the use or cultivation which he may prefer.

30 2d. He shall solicit of the proper judge to be put in judicial possession in virtue of this patent, by whom shall be marked out the proper boundaries, on which the party interested shall put the necessary monuments.

3d. The land hereby granted is two eagues lof the larger size, in conformity with the map which accompanies the original espediente. The judge who shall give possession shall have it measured as required by law, leaving the surplus to the nation for its own uses.

Wherefore, I order that this title being (recog'n) regarded as firm and valid, shall be recorded in the proper book, and be delivered to the party for his protection and other purposes.

Given in the city of Los Angeles upon this common paper, for want of sealed paper, the 21st April, 1846.

Let this be registered in the proper book.

ANGELES, *May 8th*, 1846.

I give notice of this espediente to the departmental assembly in its session of to day; referred to the committee on vacant lands.

PIO PICO, *Pres't.*

AUGUSTON OLVERA, D. S.

The committee on vacant lands has examined this espediente presented by the naturalized citizen Pedro Sainsevain, of the place called the Rincon, where the river San Lorenzo runs, granted by the governor, in conformity to the laws upon this subject, and presents for your deliberation the following proposition:

The concessions made to the naturalized citizen Pedro Sainsevain of the place called the Rincon, on the river San Lorenzo, in the jurisdiction of Monterey, according to the title of the 21st of

31 April of the present year, in conformity to the law of the 18th of August, 1824, and the 5th article of the regulations of the 21st of Nov., 1828, is approved.

Hall of the committee, in the city of Los Angeles.

S. ARGUELLO.

ANGELES, 10*th June*, 1846.

In its session of this day the departmental assembly approved the foregoing proposed decree.

Filed in office July 6th, 1852.

GEO. FISHER, *Sec'y.*

32 Pio Pico, gobernador constitucional del departamento de las Californias.

{ Gobierno del dep'to de Californias. }

Por cuanto Don Pedro Sainsevain, ciudadano Mejicano por naturalizacion ha pretendido para su beneficio personal y el de su familia un terreno conocido por el nombre de la Cañada del Rincon donde corre el rio llamado de Sn. Lorenzo en las cercanias de la mision de S'ta Cruz, colindante con las siembras, de Dn. Guillermo Wiguis y el rancho denominado Sayante, practicadas previamente las diligencias y averiguaciones consernientes segun lo dispuesto pr. leyes y reglamentos, usandode las facultades que me son conferidas a nombre de la nacion Mejicana, ha benido en decreto de este dia, en concederle el espresado terreno, declarandole la propiedad de el por las presentes letras, entendiendose dicha consesion de entera conformidad con las leyes a reserva de la aprovacion de la ex'ma asamblea departmental y bajo las condiciones siguientes:

1a. Podra sercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutara libre y esclusivamente dedicandolo al uso o cultivo ql. mas le acomode.

2a. Solicitara del Juez respectivo le dé la posecion juridica en virtud de este despacho pr. lo cual se demarcaran los linderos respectivos, en cuyos lugares pondrá el interesado los mojoneras necesarios.

3a. El terreno de ql. se hace donacion es de puramente el de dos sitios de ganado mayor conforme al diseño que corre agregado al espediente original.

El juez que diere la posecion lo hara medio con arreglo á
33 ordenanza dejando el sobrante a la nacion para las usos convenientes.

En consecuencia mando que teniendose pr. firme y valedero el presente titulo, se tome razon de el en el libro a q'l corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de los Angeles en este papel comun por falta del sellado, a veintiuno de Abril de mil ochocientos cuarenta y seis.

PIO PICO.

(Here follows map, p. 34.)

35 *Document No.* 1, *annexed to the depo. of Man'l Jimeno.*

Pio Pico, gobernador constitucional del departamento de las Californias.

{ Gobierno del dep'to de California. }

La exmo. asamblea departamental en sesion del dia 1o. de Junio ha tenido a bien decretar lo siguiente:

"Sea aprueba la concession hecha al ciudadano por naturalizasion Pedro Sainsevain del parage nombrado Rincon en el rio de San Lorenzo, jurisdiccion de Monterey. Segun titulo librado en f'ha 21 de Abril de este año conforme á la ley de 18 de Agosto de 1824 y el art. 5o. del reglamento de 21 de Noviembre de 1828."

Y para resguardo de la parte del ciudadano por naturalization Dn. Pedro Sainsevain lo hago asi saber.

Dado en la ciudad de Los Angeles en papel, comun por no habe · sellado a trece de Junio de mil ochocientos cuarenta y seis.

PIO PICO.
JOSÉ MATIAS MORENO,
S'rio Into.

Filed in office Jan'y 17, 1853.

GEO. FISHER, *Sec'y.*

36 *Opinion by Com'r Thompson Campbell.*

PEDRO SAINSEVAIN *vs.* THE UNITED STATES. } La Cañada del Rincon, 2 leagues.

The grant in this case was made on the 21st of April, A. D. 1846, and confirmed by the departmental assembly on the 10th day of June, A. D. 1846. It does not appear that any juridical possession was ever given, or that any juridical measurement was ever made. The grant is proved to be genuine, and the signature is shown to be in the handwriting of Governor Pio Pico. The inhabitancy and occupancy of the premises are proved to be in conformity with the conditions of the grant. The only question of difficulty in this case is the want of identity and ascertainable locality of the land granted. The espediente filed in the cause shows that the petitioner applied for the same tract of land to Governor Micheltorena in the year 1843, and that he received a provisional grant, but on account of being a foreigner his application for the title was denied. In the meantime he obtained his naturalization paper; after which he applied to Governor Pico, and received the grant above referred to. In the first petition which the party addressed to Micheltorena he describes the tract of land which he solicits as being situate in the settlement of Santa Cruz, a valley named the Rincon, upon the river San Lorenzo, the plan of which accompanied his petition. No further description is found in the proceedings until they reach the first concession made by Pico, where he describes the property granted in the following words: "Pedro Sainsevain, a Mexican citizen by naturalization, is declared owner in full property of the valley of the Rincon, in
37 which flows the river San Lorenzo, in the vicinity of Santa Cruz."

In the title in form the land is thus described: "A tract of land known by the name of the Cañada del Rincon, where the river San Lorenzo runs, in the vicinity of the mission of Santa Cruz, bounded by the town lands of Don Guillermo Wignis and the rancho called Sayaute."

The 3d condition annexed to the grant is in the following words: "The land hereby granted is two leagues of the largest size, in conformity with the map which accompanies the original espediente. The judge who shall give the possession shall have it measured as

required by law, leaving the surplus to the nation for its own uses." The map, which by reference is made part of the grant, represents a tract of land of an oblong shape, through which the river San Lorenzo is represented as flowing. The mission of Santa Cruz is also represented, and which, according to the scale laid down on the map, is about half a league distant from one end of the tract. The rancho of Sayaute is designated by name at one end of the tract, and the boundary of Guillermo Wignis is written at the other end. The points of the compass are not given on the map. The word sierra is written on both sides of the designated tract, which, no doubt, is intended to indicate the tract as a valley lying between two mountains or hills. The scale, as laid down on the map, represents three miles. By applying the scale to the tract as designated on the map, the tract would be only four miles in length, and a fraction over one mile in width. This measurement, if made according to the scale, would make the tract of land fall far short of the quantity which the condition above quoted calls for and specifies as the quantity contained in the tract as designated on the map. Neither the
38 grant nor the map call for or represent any natural objects except the Rio de St. Lorenzo, which the map designates as running through the centre and the whole length of the tract.

The fact that the tract is designated in the grant by the name of Cañada del Rincon gives no additional certainty to its location other than it is descriptive of a valley of which it composes a part. I have no doubt it was the case in this instance, as it generally was, that this particular tract of land was first designated by the name it now bears by the party himself when he solicited the concession. The name by which the land should be called was a part of his petition; and although it was usual for ranchos to take either the name of the most prominent natural object within their limits, or, as in this case, to be designated by fit terms descriptive of this peculiar location, the name by which they happened to be called was not by way of description, the tract never having been known as designated by that name, or any other, anterior to the grant itself, unless, as was sometimes the case, occupancy preceded the grant. These names are singularly characteristic and beautiful; the beauty and euphony of which on being named by the introduction of the more inharmonious terms, townships, sections, half and quarter. This innovation upon the beauty of names can only be tolerated on the ground of the greater certainty which the latter mode of description has over the former. The question now presented, and the one most difficult, is whether, in the absence of the juridical measurement contemplated by the grantor, the tract granted is described with such certainty as to separate it from the other lands of a like character by which it is surrounded. First, the tract clearly lies on both sides of the river Santa Lorenzo, and includes that stream. Secondly, it is bounded by the range of mountains (sierra) which form the valley through the centre of which the San Lorenzo flows. The description contained in the grant
39 bounds that part of the tract which faces the mission of Santa Cruz, with the cultivated lands of Guillermo Wignis,

and the remaining part or end of the tract by the rancho called Sayaute, thus enclosing the tract with the sierras on two sides, and with a rancho at each side. If the scale, heretofore referred to, affords anything like an accurate means of ascertaining the size of the tract as designated on the map, the limits above described embrace a much less quantity than the party, according to the grant, is entitled to receive. It is here proper to state that where the fact that the limits within which the particular grant is to be located do not contain more than the quantity granted is made to appear by proof, or otherwise, the necessity of showing a location by juridical measurement is disposed with so far as that particular object is concerned. The law agent, in a brief which *which* he has filed in this case, insists that the grant made by Governor Pico on the 21st of April, 1846, is a forgery, and for that reason the claim should be rejected. In support of this assumption he relies particularly upon the fact that the grant is only signed by the governor, and not by his secretary. While there is nothing in the law which requires the signature of the secretary to be attached to a grant, still it was the usual way in which grants were signed; but I have discovered, in cases the genuineness of which no question has been entertained, the signature of the secretary, most likely through inadvertence, has been omitted. It is true that the signature of the secretary is in all cases an additional guarantee of the genuineness of the grant, but I am not prepared to admit that its observance is of itself a sufficient cause of condemnation. In this case the signature of Governor Pico Pico is proved to be genuine; and that, too, by the old secretary, Jimeno, who, it is supposed, was well acquainted with Pico's handwriting. The history of this case, as contained in the traced copy of the espediente, I think, protects it from the suspicions to which the law agent thinks it is obnoxious. After an examination of the whole case, together with the objections which have been urged against the genuineness of the grant, we are of opinion that the claim should be confirmed.

Filed in office Jan'y 17, 1854.

GEO. FISHER, *Sec'y.*

Decree of confirmation.

PEDRO SAINSEVAIN
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is valid, and it is therefore decreed that the same be confirmed. The lands, of which confirmation are hereby made, are described and bounded as follows, to wit: On the end which faces the mission of Santa Cruz by the rancho of Guillermo Wignis; on the opposite end by the rancho called "de Sayaute;" and on the sides by the sierras, which form the valley through which the Rio de Santa Lorenzo flows. The

tract embraced within the above described boundaries is known by the name of la Cañada del Rincon, and contains two square
41 leagues, a little more or less. Reference for further description to be had to the map, which is a part of document marked A, and filed as evidence in the cause.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Comm's.

Filed in office Jan'y 17, 1854.

GEO. FISHER, *Sec'y.*

42 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary of the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-four pages, numbered from 1 to 34, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office in case No. 283 on the docket of the said board, wherein Pedro Sainsevain is the claimant against the United States, for the place known by the name of "La Cañada del Rincon."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, California,
[SEAL.] this thirty-first day of July, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'ry.*

Filed 11th February, 1857.

C. SIMS, *Cl'k,*
Per J. H. COLEMAN, *Dep'ty.*

43 *Appeal Notice.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 30th November, 1854.

PEDRO SAINSEVAIN
vs. } 283.
THE UNITED STATES.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August, 1854, the appeal in the district court of the United States

for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed Jan'y 10th, 1855.

44 C. E. CARN, *Clerk.*

45 In the district court of the United States for the southern district of California.

CITY AND COUNTY OF LOS ANGELES—STATE OF CALIFORNIA.

PEDRO SAINSEVAIN, appellee, *ads.* THE UNITED STATES, appellant. } Docket No. 391.—Transcript No. 283

To the Hon. Isaac S. K. Ogier, judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 6th day of July, A. D. 1852, Pedro Sainsevain presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming a tract of land called Cañada del Rincon, in the county of Santa Cruz, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit, on or about the 17th day of January, A. D. 1854, the said commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit, on or about the 11th day of February, A. D. 1857, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 291; reference to which it is prayed may be had and made part of this petition. That on or about the 11th day of August, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded. That thereafter, to wit, on the 10th day of January, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States. Your petitioner further represents, that the land claimed, as aforesaid, is situate in the southern district of California, and within the jurisdiction of this honorable court. Your petitioner further rep-

resents and insists that the said claim is invalid, and the said decision of said commissioners is erroneous, and ought to be reversed, revised and set aside for many errors and imperfections of law and evidence apparent in said certified transcript of the pro-
46 ceedings and decisions of said commissioners in said cause filed and appealed from as aforesaid. And your petitioner denies all and singular each and every allegation in the said petition of said claimant presented as aforesaid to said commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners, but the said claim should have been rejected by them. And the said claimant having no valid right or title derived from the Spanish or Mexican governments to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by and it now belongs to the United States by virtue of conquest, and the treaty of peace, friendship, limits and settlements between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo February 2d, A. D. 1848.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney, may be served with a copy of this petition, and that this honorable court will review the said decision of said commissioners, and reverse the same, and decide on the validity of the said claim, and decree the alleged title to be invalid, with costs and general relief.

P. ORD,
Attorney of the United States for the southern district of California.

Filed January 11th, 1858.

C. SIMS, *Cl'k*,
p. J. H. COLEMAN, *Deputy.*

49 *Summons.*

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to Pedro Sainsevain, greeting:

Take notice that a petition, a copy of which is herewith served upon you, has been filed against you in the district court of the United States in and for the southern district of California, on the 11th day of January, in the year of our Lord one thousand eight hundred and fifty-eight, at the city and county of Los Angeles, in said district, by P. Ord, U. S. dist. att'y for the S. dist. California, praying said court to review the decision of the U. S. board of commissioners

rendered in your favor the 17th January, 1854, for the tract of land called "Cañada del Rincon," in the county of Santa Cruz; and that you are required to appear at said court, in said city, within ten days after the service hereof if served on you within the county of Los Angeles, and within twenty days if served on you in the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or that judgment by default will be taken against you, and the prayer of the said petitioner will be granted, with costs.

In witness whereof, I have hereunto set my hand and affixed the seal of the said court this 11th day of January, in the year [SEAL.] of our Lord one thousand eight hundred and fifty-eight, at Los Angeles aforesaid.

C. SIMS, *Clerk*,
P'r J. H. COLEMAN, *Dep'ty.*

50 I served this summons, along with the proper copy of the petition, upon Pedro Sainsevain, at Los Angeles, in the southern district of California, on the 19th day of January, A. D. 1858.

JAMES C. PENNIE, *Marshal.*

Sworn to and subscribed before me this 19th Jan'y, 1858.

C. SIMS, *Cl'k*,
P'r J. H. COLEMAN, *Dep'ty.*

Filed this 19th January, 1858.

C. SIMS, *Cl'k*,
P'r J. H. COLEMAN, *Dep'ty.*

Decree of the U. S. dist. court, northern district.

51 In the United States district court for the northern district of California.

THE UNITED STATES *vs.* PEDRO SAINSEVAIN. } No. 90, decree.—No. 283, land commission.

Stated term, September 20th, 1855.

Appeal from the final decision of the commissioners to ascertain and settle private land claims in California.

In this case, it appearing from the records of this court that the certified transcript of the proceedings and decision, and of the papers and evidence on which the same are founded, prepared by the board of commissioners on private land claims in California, was filed with the clerk of this court on the 13th day of September, A. D. 1854, in pursuance of the 12th section of the appropriation act of the 31st of August, 1852, chapter 108; and it further appearing that the said claim was decided against the United States, and that the transcript of the said case, according to the provision of the said act, was received by the Attorney General of the United States on the 30th

day of August, 1854; and further, it appearing from the records of this court that no notice has been filed that the appeal would be prosecuted by the United States, and six months having elapsed since the receipt of the said transcript, it is therefore ordered and decreed that the said appeal be dismissed, as provided in said act.

OGDEN HOFFMAN, JR.,
U. S. Dist. Judge.

52 Endorsed: Filed September 20th, 1855.

JOHN A. MUNROE, *Clerk.*

I, John A. Munroe, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of the original now on file and remaining of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court the 5th day of February, A. D. 1858. [SEAL.]

JOHN A. MUNROE, *Clerk,*
By W. H. CHEVERS, *Deputy.*

Filed Feb'y 9th, 1858.

C. SIMS, *Clerk.*

53 *Stipulation.*

No. 283.—El Rincon.

It is hereby stipulated and agreed that the land claimed in this case lies north of parallel 37° of north latitude.

September 8th, 1854.

J. W. McKUNE,
Law Agent.
A. R. CRITTENDEN,
Att'y for Claimant.

Endorsed: "283. Pedro Sainsevain. Cañada del Rincon. Stipulation. Filed in office Sept. 12th. 1854. Geo. Fisher, sec'y. Recorded in journal, vol. 4, page 35."

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, California.

I, James W. Mandeville, U. S. surv. gen'l for Cal'a, and as such having in my custody the papers of the late board of U. S. land commissioners to ascertain and settle the private land claims in California, do hereby certify the above to be a full, true, and exact copy of a stipulation, with the endorsements thereon, on file in case No. 283 on the docket of said board of land commissioners, in which Pedro Sainsevain is claimant of a place named "La Cañada del Rincon."

[SEAL.] Given under my hand and official seal, at the city of San Francisco, Cal'a, this 5th day of February, A. D. 1858.

J. W. MANDEVILLE,
U. S. Surv. Gen'l, Cal'a.

Filed Feb'y 9th, 1858.

C. SIMS, *Clerk.*

54 THE UNITED STATES *vs.* PEDRO SAINSEVAIN. } No. 391, D. C.—No. 283, L. C.

This day comes the said claimant, by his attorney, and moves the court to dismiss the petition filed in this case, because he says this court hath not jurisdiction to hear and determine the matters and things therein set forth.

Filed Feb'y 9th, 1858.

C. SIMS, *Clerk.*

55 *Decree.*

In the district court of the United States for the southern district of California.

THE UNITED STATES *vs.* PEDRO SAINSEVAIN. } No. 391, D't C't.—No. 283, L. Com's.

This day came the said Pedro Sainsevain, by his attorney, and moved the court to dismiss the petition heretofore filed in this case against him, which was argued by counsel; whereupon it appearing to the satisfaction of the court that the transcript of the proceedings and decision of the board of land commissioners, and of the papers and evidence on which the same was founded, have been duly filed in the clerk's office of the district court of the United States for the northern district of California, and it further appearing by a stipulation in said record, signed by J. H. McKune, law agent, and A. R. Crittenden, attorney for claimant, that the land in said transcript mentioned lies north of the 37° of north latitude, and that the said district court for the northern district of California had heard and finally determined said cause by decree of the 20th of September, 1855, it is now hereby ordered and decreed that said motion be granted, and that the said petition be, and the same is hereby, dismissed.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the S. Dist. of Cal'a.

Filed Feb'y 9th, 1858.

C. SIMS, *Clerk.*

56 *Appeal.*

United States district court, southern district California.—Regular December term, 1857.—March 15th, A. D. 1858.—Hon. Isaac S. K. Ogier, judge.

PEDRO SAINSEVAIN, app'ee, *ads.* THE UNITED STATES, app'l't. } No. 391.

On motion of E. J. C. Kewen, act'g U. S. dist. attorney, it is ordered that an appeal be allowed the United States in this cause.

57 United States district court, south'n dist. Cal'a.

CLERK'S OFFICE, MONTEREY.

I, John O. Wheeler, clerk of the United States district court for the south'n dist. of Cal'a, do hereby certify the foregoing fifty-six pages, numbered from 1 to 56, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings, and of the decision of said court, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 391 on the docket of the said court, wherein Pedro Sainsevain is the claimant against the United States for the place known by the name of "La Cañada del Rincon."

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Monterey, this the 30th day of June, A. D. 1863.

[SEAL.]

JOHN O. WHEELER,
Cl'k U. S. Dist. C't, S. Dist. Cal'a.

Filed Dec. 1st, 1863.

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